

EXHIBIT 73

Picard v. Merkin

A. Ghisletta 1-14-15

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

BERNARD L. MADOFF INVESTMENT SECURITIES LLC, Debtor.

Adv. Pro. No.

08-01789 (BRL)

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff
Investment Securities LLC,

Plaintiff, Adv. Pro. No.
09-1182 (BRL)

v.

J. EZRA MERKIN, GABRIEL CAPITAL,
L.P., ARIEL FUND LTD., ASCOT
PARTNERS, L.P., GABRIEL CAPITAL
CORPORATION,

Defendants.

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VIDEOTAPED DEPOSITION OF ALDO GHISLETTA, as
taken by and before Nancy C. Bendish, Certified
Court Reporter, RMR, CRR, Realtime Systems
Administrator and Notary Public of the State of
New York, at the offices of HSM CHAMBERS,
Buckingham Square, 720 West Bay Road, Grand
Cayman, Cayman Islands, on Wednesday, January
14, 2015, commencing at 9:01 a.m.

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09:28:20 1 Tracker is inputted by you or your team?

09:28:23 2 A. Yeah.

09:28:23 3 Q. Do you keep track of meetings that
09:28:25 4 take place concerning a fund in DMS Tracker?

09:28:29 5 A. Yes.

09:28:29 6 Q. Do you keep track of phone calls
09:28:31 7 that take place?

09:28:32 8 A. Yes.

09:28:34 9 Q. Does DMS Tracker still exist?

09:28:40 10 A. Yes.

09:28:40 11 Q. In your years in the financial
09:28:43 12 services industry, prior to 2008, have you ever
09:28:45 13 heard of Bernard L. Madoff?

09:28:48 14 A. No.

09:28:50 15 Q. Prior to 2008 have you ever heard
09:28:52 16 of BLMIS?

09:28:56 17 A. No.

09:29:06 18 Q. Prior to 2008 have you ever heard
09:29:09 19 of the split-strike conversion strategy?

09:29:15 20 A. No.

09:29:27 21 Q. Do you know of J. Ezra Merkin?

09:29:31 22 A. No.

09:29:39 23 MS. ARCHER: Was your question do
09:29:40 24 you know him or know of him?

09:29:42 25 MS. FELDSTEIN: Know of him.

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09:29:43 1 MS. ARCHER: Has he heard of him?

09:29:45 2 MS. FELDSTEIN: Yes.

09:29:45 3 Q. Have you heard of J. Ezra Merkin?

09:29:55 4 A. After -- if I know his name? Yes,
09:29:59 5 because when I accept the directorship on Ascot
09:30:07 6 and Ariel, he was mentioned, his name as well,
09:30:12 7 into the document. If I recall well. If I
09:30:18 8 remember well.

09:30:20 9 Q. So you accepted, at one point you
09:30:23 10 accepted a directorship of -- on the Ascot Fund
09:30:26 11 board?

09:30:27 12 A. Yeah, I think it was November
09:30:30 13 2002.

09:30:31 14 Q. And at one point you accepted a
09:30:33 15 position on the board of Ariel Fund?

09:30:36 16 A. Yeah.

09:30:36 17 Q. And before you did that, you
09:30:39 18 reviewed certain documents which mentioned J.
09:30:42 19 Ezra Merkin?

09:30:45 20 A. It was -- yeah.

09:30:49 21 Q. Have you ever spoken with
09:30:51 22 Mr. Merkin?

09:30:52 23 A. No.

09:30:55 24 Q. Did you have -- when you were in
09:31:01 25 the process of accepting a position on the board

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09:52:56 1 previous Fortis, used to be, in that case
09:53:11 2 MeesPierson was acting as, not as a -- used to
09:53:19 3 be a Dutch bank in the past and I think this one
09:53:28 4 was the Cayman subsidiary doing banking and
09:53:35 5 other business related to hedge fund.

09:53:45 6 Q. And what was the connection
09:53:47 7 between MeesPierson and Ascot Fund in 1995?

09:53:55 8 A. I presume they used to be the
09:54:05 9 administrator or the custodian of Ascot.

09:54:21 10 Q. If you could just flip back to
09:54:27 11 Trustee's Exhibit 327.

09:54:34 12 A. Yeah.

09:54:43 13 Q. Do you see in the third line of
09:54:46 14 the chart, starts with ABN AMRO?

09:54:53 15 A. Yeah, I see.

09:54:54 16 Q. Can you read the rest of that box?

09:54:58 17 A. ABN AMRO Bank Cayman Limited,
09:55:01 18 formerly known as MeesPierson Management Cayman
09:55:05 19 Limited.

09:55:06 20 Q. And this is the register of
09:55:09 21 director --

09:55:10 22 A. Of director, yeah.

09:55:11 23 Q. So, based on this document, is it
09:55:13 24 fair to say that MeesPierson was a director of
09:55:16 25 Ascot Fund?

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11:10:01 1 A. And plus the topic is exactly the
11:10:03 2 same. It's unusual for all the fund. Usually
11:10:10 3 we have two separate meetings. But in this
11:10:13 4 case...

11:10:14 5 Q. Do you remember having a prior
11:10:16 6 board meeting for Ariel Fund?

11:10:20 7 A. Prior to this one?

11:10:21 8 Q. Yes.

11:10:21 9 A. No.

11:10:23 10 Q. Do you remember having a prior
11:10:25 11 board meeting for Ascot Fund? Prior to the one
11:10:27 12 on December 15th?

11:10:29 13 A. No.

11:10:35 14 Q. Did you play any role in the
11:10:37 15 winding down of Ascot Fund?

11:10:42 16 MS. ARCHER: Object to the form.

11:10:43 17 A. No.

11:10:47 18 Q. Did you play any role in the
11:10:49 19 winding down of Ariel Fund?

11:10:51 20 MR. SIEV: Objection to the form.

11:10:54 21 A. Ariel is already in liquidation.

11:11:00 22 Q. As of --

11:11:03 23 A. You mean now?

11:11:04 24 Q. No. I mean in December of 2008 or
11:11:06 25 January of 2009.

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11:27:51 1 Fund can remove the investment manager? I said
11:27:56 2 no. The Board of Director of Ascot Fund, I
11:28:07 3 understand well?

11:28:07 4 Q. Yes.

11:28:08 5 A. Can remove the investment manager?

11:28:10 6 Q. Yes. That's what I'm asking.

11:28:12 7 A. No. I answered no before as well.

11:28:16 8 Q. Okay. Could the Ascot Fund Board
11:28:32 9 of Directors have decided to change Ascot Fund's
11:28:35 10 investment strategy?

11:28:47 11 A. Yes.

11:28:51 12 Q. Could the board -- could the Ascot
11:28:54 13 Fund Board of Directors have made that decision
11:28:55 14 without the approval of Mr. Merkin?

11:29:02 15 MS. ARCHER: Object to the form.

11:29:09 16 A. Can you repeat again, please.

11:29:11 17 Q. Yes. Could the Board of Directors
11:29:13 18 of Ascot Fund have decided to change Ascot
11:29:19 19 Fund's investment strategy without the approval
11:29:22 20 of Mr. Merkin?

11:29:27 21 A. Without approval of Mr. Merkin?

11:29:55 22 It's -- so, I have to -- you said the Board of
11:30:11 23 Director of Ascot Fund can change the strategy
11:30:16 24 without Mr. Merkin approval?

11:30:21 25 Q. Yes, I'm asking, yes, if the board

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11:30:24 1 had the authority to do that.

11:30:37 2 A. No.

11:30:42 3 Q. Earlier you stated that you are no
11:30:47 4 longer on the board of Ariel Fund.

11:30:49 5 A. Correct.

11:30:50 6 Q. When did you cease to be on the
11:30:53 7 board of Ariel Fund?

11:30:56 8 A. If I remember well, December 2014.

11:31:02 9 Q. And what was the reason for no
11:31:05 10 longer being on the board of Ariel Fund?

11:31:09 11 A. Because Ariel Fund is in
11:31:11 12 liquidation and the liquidator take the role --
11:31:18 13 assume the liquidator is appointed, director
11:31:24 14 have to resign.

11:31:32 15 Q. Did you mean to -- you said that
11:31:35 16 you stopped being on the board of Ariel Fund in
11:31:38 17 December 2014, last month?

11:31:43 18 MS. ARCHER: Objection.

11:31:46 19 MR. SIEV: That was what his
11:31:48 20 answer was, I think she's asking if that's what
11:31:51 21 he meant. I think she's trying to clarify the
11:31:53 22 date that you terminated being on the board of
11:31:56 23 Ariel.

11:31:59 24 MS. FELDSTEIN: That's fine.

11:32:00 25 MR. SIEV: In your answer you said

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11:32:03 1 December 2014. Whatever your recollection is is
11:32:08 2 fine.

11:32:11 3 A. Now I have a doubt. I think it's
11:32:14 4 December '14. I have to say, I don't remember.

11:32:24 5 MS. FELDSTEIN: Your witness.

11:32:26 6 MR. SIEV: Neil?

11:32:27 7 MR. STEINER: No questions.

11:32:31 8 THE VIDEOGRAPHER: Okay. Off the
11:32:32 9 record, 11:32.

11:34:14 10 (Deposition concluded.)

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